

IN THE UNITED STATES DISTRICT FOR
THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

| | | |
|-------------------------|---|---------------------|
| KAREN LURIE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | NO. 1:06-cv-0034MEF |
| |) | |
| |) | |
| GLOBE LIFE AND ACCIDENT |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

DEPOSITION OF DANIEL MENDOZA
TAKEN ON BEHALF OF THE PLAINTIFF
IN OKLAHOMA CITY, OKLAHOMA
ON SEPTEMBER 14, 2006

REPORTED BY: ELIZABETH CAUDILL, CSR, RMR, CRR



A P P E A R A N C E S

For the Plaintiffs: Christopher E. Sanspree
(By videoconference) Attorney at Law
218 Commerce Street
Montgomery, Alabama 36104

For the Defendant: Robert Poundstone, IV
Philip H. Butler
Attorneys at Law
401 Adams Avenue, Suite 780
Montgomery, Alabama 36104

Anastasia Pederson
Attorney at Law
Globe Life Center
204 North Robinson, Suite 300
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Also Present: Bilinda Hines
(By videoconference)

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by
and among the attorneys for the respective
parties hereto that the deposition of DANIEL
MENDOZA may be taken on behalf of the PLAINTIFF
on SEPTEMBER 14, 2006 in Oklahoma City, Oklahoma,
by Elizabeth Caudill, Certified Shorthand
Reporter within and for the State of Oklahoma,
pursuant to agreement.

IT IS FURTHER STIPULATED AND AGREED by
and among the attorneys for the respective
parties hereto that all objections, except as to
the form of the question, are reserved until the
time of trial, at which time they may be made
with the same force and effect as if made at the
time of the taking of this deposition.

* * * * *

1 * * * * *

2 DANIEL MENDOZA,
3 having been first duly sworn at 1:26 p.m.,
4 deposes and says in reply to the questions
5 propounded as follows, to wit:

6 DIRECT EXAMINATION

7 BY MR. SANSPREE:

8 Q Could you state your name for the
9 record, please, sir.

10 A Daniel Mendoza.

11 Q Mr. Mendoza, I'm Chris Sanspree, and I
12 represent Ms. Lurie in a lawsuit we filed against
13 Globe Life. And your name was provided to me
14 today as being probably the person most familiar
15 with the customer service department. Is that
16 your understanding of why you're here?

17 A Yes, sir.

18 Q And are you here today to testify on
19 the -- I guess the procedures that are in place
20 in the customer service department?

21 A Yes, I am.

22 Q On behalf of Globe Life?

23 A Yes.

24 Q And how long have you been -- tell me
25 your job title.

1 A I'm a supervisor in our customer
2 service department.

3 Q How long have you been the supervisor
4 in the customer service department?

5 A Five years.

6 Q How long have you been with the
7 company?

8 A Eight years.

9 Q Have you always been in the customer
10 service department?

11 A Yes.

12 Q Can you tell us what the customer
13 service department, what is it?

14 A We take incoming phone calls from our
15 policyholders and answer their questions.

16 Q And Barbara was just in here and
17 testified. Have you talked with her or
18 Ms. Whitaker before coming in today?

19 A No.

20 Q Did you know they were coming in and
21 giving testimony today?

22 A Yes.

23 MR. SANSPREE: Ms. Court Reporter, I
24 think what I marked as Barbara's exhibit was
25 Exhibit Number 2. Do you still have those out,

1 Bobby?

2 MR. POUNDSTONE: I can get it in two
3 seconds.

4 Okay. He's got it in front of him.

5 Q (By Mr. Sanspree) Now, Mr. Mendoza,
6 Ms. Hernandez testified that these are the logs
7 from the telephone calls made from this specific
8 number from March 11th, 2003, through May 28th of
9 2004.

10 Do you see where I'm referencing those
11 dates on the left-hand side?

12 A Yes, I do.

13 Q And you see the telephone numbers on
14 the right-hand side?

15 A Yes, I do.

16 MR. BUTLER: Excuse me. I think you
17 said 2003. You meant to say 2004, didn't you?

18 MR. SANSPREE: Yes. Thank you.

19 Q (By Mr. Sanspree) Now, Mr. Mendoza, are
20 you familiar with a document that would look like
21 this from the customer service department?

22 A Not printed out. Normally when we view
23 these, they are actually on our PC, on our
24 computer system.

25 Q Is this -- go ahead.

1 A But this would be an accurate
2 representation of what we have available to us.

3 Q Just so we're clear, Exhibit 2 to
4 Ms. Hernandez's deposition, the form that it's
5 produced in this piece of paper, is that how it
6 appears on the PC --

7 A It appears to be, yes, sir.

8 Q -- when you pull up this? And
9 Ms. Hernandez testifies that there is a system,
10 it's Eon system?

11 A That is the name of the company.

12 Q Are you familiar with that?

13 A Yes.

14 Q And do you know when that system first
15 began being utilized by Globe Life?

16 A The system for recording or the entire
17 IVR system, itself?

18 Q Recording.

19 A The recording? That would have been
20 March of 2004.

21 Q Now, I guess you are in the customer
22 service department back in 2004.

23 A Yes.

24 Q What was the system for recording
25 telephone conversations or telephone calls back

1 before March of 2004?

2 A We really didn't have anything that was
3 like this where we could go back. It was much
4 more archaic. We had to actually put a cassette
5 tape in and actively choose who we wanted to
6 record.

7 So we didn't have anything that
8 actually was continuously recording our calls all
9 the time. It was only when we decided to record.

10 Q Okay. Let me ask you this. Were you
11 asked to review your records to see whether or
12 not a telephone call was made back in January of
13 2004 regarding this claim?

14 A I was not, no.

15 Q Have you done that?

16 A I have not.

17 Q Even though you may not -- you have?

18 A I have not, no.

19 Q Okay. Now, earlier today Ms. Whitaker
20 was -- I asked her some questions about the
21 customer service department, and she testified to
22 some things.

23 Tell me what you would do typically in
24 a typical situation when somebody calls and
25 reports a death --

1 A First thing we'd do is ask for the --

2 Q -- of an insured.

3 A We ask for the policy number. We'll go
4 to our notification of death screen. We'll ask
5 for the caller's name, relationship to the
6 insured person. We'll take their telephone
7 number and mailing address. We'll advise the
8 status of the policy, whether it's current or
9 lapsed. And then we would advise if the policy
10 is current and in force, what information needs
11 to be sent in to us, such as death certificate,
12 so that we can begin processing the claim.

13 Q All right. Now, what you just
14 testified to when you say you get the caller's
15 name and address and you said you can pull up to
16 see whether or not the policy was in force or had
17 lapsed, is this information that you had back in
18 January of 2004?

19 A Yes.

20 Q Or is this new?

21 A Yes, we did.

22 Q You did have it back -- there's a lag
23 in time between my questions, so give me a pause
24 or two before you answer it.

25 But just so the record's clear, you

1 could pull up this information back in January of
2 2004, everything you just testified to?

3 A Yes.

4 Q Okay. So back in January of 2004, if a
5 caller had called in to report a death, you would
6 immediately know whether or not the policy had
7 lapsed or whether or not the premiums needed to
8 be paid; correct?

9 A That is correct.

10 Q Did you speak with the plaintiff in
11 this lawsuit at any point in time?

12 A Not that I am aware of.

13 Q Are you aware of any notes that would
14 indicate that you specifically talked to them
15 yourself, Ms. Lurie?

16 A No.

17 Q Did you talk to Ms. Lurie's attorney, a
18 guy by the name of Mr. Matthews, at any point in
19 time?

20 A No.

21 Q During your employment in the customer
22 service department, are you aware of any
23 instances where someone has called in and that
24 phone call was not logged on the computer system
25 when they're reporting a death?

1 A That it's not logged onto the
2 NDTH system, onto our death screen system or
3 recorded?

4 Q Just recorded.

5 A I'm unaware of any times.

6 Q You probably need to -- I need to ask
7 you to explain to me the difference in the
8 recording systems, because I'm not familiar with
9 your system.

10 A Uh-huh.

11 Q Is there a difference between the death
12 reporting screen and just the recording?

13 A Well, recording -- I'm sorry.

14 Q Go ahead. You seem to make a
15 distinction between the two, and I was just
16 wondering where the distinction is.

17 A Recording is the actual -- when I'm
18 referring to recording, I mean the actual
19 physical recording of the call, itself, by our
20 recorder, voice recorder.

21 Q Okay.

22 A And then the recording of the claim --
23 I'm sorry -- I meant actually entering it onto
24 our what's called our NDTH screen, that's our
25 notification of death screen, physically

1 inputting the information.

2 Q Explain to me again what you refer to
3 as that.

4 A NDTH.

5 Q When you said death screen, that's what
6 you were referring to?

7 A Yes.

8 Q Are you aware of any time somebody
9 had -- or any instances where somebody had called
10 in and reported a death where they did not enter
11 it into the notification screen?

12 A I am unaware of any times.

13 Q Is it possible that that has happened
14 in the past?

15 A It is possible. I'm unaware of it, but
16 it is possible.

17 Q Tell me the training that a customer
18 service, I guess, representative would go through
19 before they would be able to be allowed to take
20 phone calls and answer questions.

21 A Training specific to death claims or
22 just --

23 Q Just -- if I understand your testimony,
24 when someone calls in to Globe Life, they're put
25 through to customer service; is that correct?

1 A Yes.

2 Q So you would answer a wide range of
3 different questions; correct?

4 A That is correct.

5 Q So -- and then I guess my question:
6 What type of training does one go through before
7 they're allowed to field phone calls and attempt
8 to answer questions?

9 A Okay. Basic training starts with the
10 teaching of all the different screens that we
11 use; for example, the death claim screen, premium
12 screen, address change screen.

13 New hires are then given mock policy
14 numbers to test on our system where they actually
15 input data into these screens. They then get
16 test calls, which are not actual calls from
17 policyholders but from our trainers regarding
18 premium questions, address change questions or
19 death questions, et cetera.

20 Q And I notice that you referenced a mock
21 policy number that they're given. When they
22 enter a mock policy number, does a policy come on
23 the screen so you can see the terms and
24 conditions?

25 A I have --

1 Q Go ahead.

2 A We do have test policy numbers that we
3 use that are created for this purpose.

4 Q Does that mean -- okay. When you say
5 "test policy numbers," what I'm trying to get at,
6 does an actual policy come up on the screen where
7 you can see the terms and conditions of that
8 person's insurance policy?

9 A Yes.

10 Q And so you're able to field questions
11 regarding coverage issues and stuff like that?
12 Do you do that?

13 A Yes.

14 Q What type of training are the customer
15 service reps given regarding the coverage
16 issues --

17 A Regarding --

18 Q -- if any?

19 A Well, they learn the basic types of
20 plans that we have, different coverages that we
21 have available.

22 Is there a specific -- I'm not sure --

23 Q Right. You're talking about coverages.
24 What about exclusions? Are you all made aware of
25 any exclusions that may exist in a certain type

1 of policy?

2 A Not on a specific plan, no.

3 Q Say I called in with a specific policy
4 number. And I'll use their policy number, which
5 is J522139. And I call in and give you that
6 number.

7 When you type in that policy number,
8 does a sample policy with my terms and conditions
9 pop up on your screen?

10 A It does not; however, the CSR's do have
11 access to an intranet site which would have an
12 example of that policy where they can then read
13 it if they need to.

14 Q And just for the record, when you said
15 CSR, you're referring to customer service
16 representatives; correct?

17 A I'm -- yes.

18 Q So when somebody -- say, for instance,
19 I did call in and ask about that specific policy
20 number. The customer service rep would have to
21 actually get on the Internet and pull it up;
22 correct?

23 A Intranet, yes.

24 Q My policy?

25 A Yes, if there were questions that the

1 policyholder had that were in the policy, itself,
2 yes.

3 Q Is there any type of recording device
4 that would tell me whether or not Mrs. Lurie's
5 policy was accessed back in January of 2004 if a
6 phone call was actually made by her attorney at
7 that time reporting the death?

8 MR. POUNDSTONE: Object to the form.

9 THE WITNESS: There is not, no.

10 Q (By Mr. Sanspree) Are the sample
11 policies, are they like on a central database at
12 Globe Life?

13 A Yes.

14 Q Is there any way that we could go back
15 and look and see if this policy number and policy
16 type was accessed back in January of 2004 by
17 anybody from the customer service department?

18 A There is not, no.

19 Q Say I called back in January of 2004
20 and gave you the policy number and you did access
21 my policy and answer some questions I had
22 regarding coverages.

23 Would there be any way that we could
24 tell that that actually happened?

25 A No.

1 Q There's no way at all to document me
2 calling in and asking questions about a specific
3 type of policy type other than -- back in January
4 of 2004?

5 I understand you have the recorded
6 telephone now, but back in January of 2004,
7 there's no way that we could evidence that that
8 happened?

9 A No.

10 Q Let me ask you this, Mr. Mendoza. If a
11 customer service representative did field a phone
12 call from an attorney representing Ms. Lurie and
13 was notified of the death back in January of 2004
14 and did not document that on the system, would
15 that be a violation of policy and procedures in
16 the customer service department?

17 A Yes, it would.

18 Q Would it be possible that that could
19 have happened?

20 A It is possible. I'm unaware that it
21 did happen in this case or any other case. Of
22 not knowing the entire time that I've been in
23 customer service, it's possible, but it's not
24 happened to my knowledge.

25 Q Could a customer service

1 representative -- if I called in and reported the
2 death of an insured and gave you my policy
3 number, could the customer service rep pull up
4 whether or not I owed premiums on that policy?

5 A Yes.

6 Q And how long would that take?

7 A Once the policy number is entered, it
8 comes up immediately, the information.

9 Q Do you know anything about the claims
10 department?

11 A Only that they do process our claims.
12 Basically we take the information. From that
13 point it's our claims department that handles all
14 the processing.

15 Q Does the question of whether or not the
16 policy's in force and premiums have been paid, is
17 that something that's addressed initially when
18 the claim is filed or you're notified of a claim?

19 A We would give information to the caller
20 indicating whether or not the policy is current,
21 in force, or lapsed.

22 Q And is that something that would be
23 done initially once you're notified of a death of
24 an insured?

25 A Yes.

1 MR. BUTLER: By the customer service
2 department?

3 MR. SANSPREE: Yeah, or just anyone.

4 MR. BUTLER: Huh?

5 MR. SANSPREE: That and anyone from the
6 claim department, too.

7 MR. BUTLER: Well, I think your
8 question was a little unclear. I couldn't hear
9 it all, Chris.

10 MR. SANSPREE: Don't believe him,
11 Mr. Mendoza. He's deceptively southern.

12 MR. BUTLER: I can't hear very well.
13 Would you mind repeating it?

14 MR. SANSPREE: I really can't remember
15 the question, Mr. Butler. Can the court reporter
16 read it back real quick?

17 (The record was read as requested)

18 MR. BUTLER: I think it was the
19 question before that.

20 MR. SANSPREE: I'll be willing to move
21 on, Mr. Butler, if you want to.

22 MR. BUTLER: I just want to be sure
23 that the witness understood the question.

24 MR. POUNDSTONE: I think the question
25 may have inferred that he knew what the practices

1 of the claims department are, and I think that's
2 what the concern is.

3 You know, he can testify to what the
4 customer service folks do, but I don't think he
5 would have knowledge of what the practices of the
6 claims department are.

7 Q (By Mr. Sanspree) Do you have any
8 knowledge of what the practices are in the claims
9 department?

10 A Not specific practices, I do not.

11 Q In general?

12 A Just that they do process our claims.

13 Q And you're aware that they do process
14 your claims. Are you aware of the procedures
15 they use to process those claims?

16 A Just very general. That they request
17 the death certificates on contestable policies,
18 they request claim forms to be completed.

19 Q What is your involvement -- are you
20 involved at all with gathering or requesting the
21 death certificates?

22 A No, we're not.

23 Q When I say "you," the customer service
24 department?

25 A The customer service department is not,

1 no.

2 Q I noticed that a contestable policy --
3 what do you mean by that, a contestable policy?

4 A Well, some policies are contestable for
5 the first two years of coverage where we will
6 request claim forms to be completed on some types
7 of policies.

8 Q And you're referring to the
9 contestability clause in policies --

10 A Yes.

11 Q -- when you say some policies -- okay.
12 All right.

13 Do you have any knowledge whatsoever
14 about this claim that you haven't gathered from
15 talking with your attorneys?

16 A No. I have not heard of it prior to
17 being asked to come in.

18 MR. SANSPREE: Appreciate it. I don't
19 have anything else.

20 MR. BUTLER: Thank you.

21 (Deposition adjourned at 1:46 p.m.)
22
23
24
25

C E R T I F I C A T E

I, ELIZABETH CAUDILL, CSR in and for the State of Oklahoma, certify that DANIEL MENDOZA was by me sworn to testify the truth; that the above and foregoing deposition was taken by me in stenotype and thereafter transcribed and is a true and correct transcript of the testimony of the witness; that the deposition was taken on SEPTEMBER 14, 2006 at 1:26 p.m. in Oklahoma City, Oklahoma; that I am not an attorney for or a relative of either party, or otherwise interested in this action.